

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
CC CELLULAR)	
Study Area Code 559002)	
)	
Petition for Waiver of Section 54.307(c)(4))	
Line Count Certification for CETC)	
Universal Service Funding)	

PETITION FOR WAIVER – EXPEDITED ACTION REQUEST

CC Cellular, pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, hereby requests that the Federal Communications Commission (the "Commission" or "FCC") grant a waiver of the data submission reporting requirements set forth in Section 54.307(c)(4)). CC Cellular respectfully requests the waiver because it missed the March 30, 2007, deadline to submit lines served as of September 30, 2006, for calculation of CETC Universal Service Funding. In support of its Petition, CC Cellular states as follows:

I. Introduction and Background

CC Cellular is a small rural cellular provider serving parts of rural northern Nevada, including Churchill County, NV.¹ The "state commission" designated CC Cellular as an eligible telecommunications carrier ("ETC") in May, 2004, for its service area within Churchill County. CC Cellular maintains the largest network residing within the county borders and provides consumers a valuable alternative to landline service. Pursuant to Commission rules, in order to

¹ CC Cellular also provides cellular service outside of Churchill County, however, has not been certified as an ETC for these lines. The line counts submitted only include subscribers within Churchill County, NV.

receive universal service support, a competitive ETC must file line count data with USAC no later than July 31, September 30, December 30 and March 30 of each year. The data should reflect working lines within the designated ETC service area that the competitive ETC served as of December 31, March 31, June 30 and September 30, respectively.²

The quarterly submission at issue is the filing that was due by March 30, 2007. CC Cellular properly completed the line count data and mailed the report on March 22, 2007 via certified mail return receipt requested. However, USAC did not receive the report until April 6, 2007, which is reflected on the return receipt. While the receipt date of April 6, 2007 is not in dispute, there is some question as to the postmark date. USAC does not maintain the actual envelop that reports are received in; rather they make a copy and discard the original. Unfortunately, the copy retained by USAC is illegible regarding the postmark date. Notwithstanding the lack of any third-party verification as to the postmark, CC Cellular's internal file indicates that the report was deposited in the mail on March 22, 2007. CC Cellular appealed the denial of funding through USAC upon being notified by USAC that the report was not received by the deadline. Thereafter, USAC denied the appeal based on its inability to waive any failure to meet a filing deadline.

II. Argument

Universal service support is essential for the maintenance of CC Cellular's network, as well as for future expansion plans. Universal service support has enabled CC Cellular to provide competitive choice and quality service offerings to consumers in rural Nevada. Universal Service plays an integral role in CC Cellular's ability to maintain the most cellular facilities in the CETC service area, as well as providing a stable revenue source that is allowing CC Cellular to invest in next generation mobile data services. Without its universal service support, CC Cellular will bear

² 47 C.F.R. § 54.307(b)-(c).

substantial financial hardship in that it will not receive approximately \$174,171 to continue its network investment and the provision of advanced telecommunications services to subscribers in high cost areas of Nevada. Lack of universal service funds may delay CC Cellular's plans to further expand and enhance its network in underserved areas of rural Nevada.

The Commission may waive a rule where the facts in a particular instance make strict compliance inconsistent with the public interest.³ CC Cellular believes that strict enforcement of the filing deadline in this case would truly disadvantage CC Cellular and, consequently, harms the very consumers intended to benefit from the federal high cost universal service program. The public interest will be served if CC Cellular continues to receive sufficient and uninterrupted universal service support, thereby facilitating the provision of a competitive choice and quality service to underserved areas of rural Nevada.

CC Cellular acted reasonably in its operating procedure that provided over five (5) business days for the report to be received via USPO certified mail return receipt requested. This procedure allowed CC Cellular to reasonably expect that the report would be received by USAC prior to the deadline. Nevertheless, CC Cellular has since implemented further safeguards to (1) help ensure that reports are received by USAC prior to the deadline, and (2) ensure that CC Cellular has a third party verification of the mailing date. For all future reports, CC Cellular will utilize either overnight mail via a private shipper that provides tracking, or USPS express with tracking. Again, CC Cellular will ensure that the report is placed in the mail at least five (5) business days prior to the due date.

III. Conclusion

For the reasons stated above, CC Cellular respectfully requests that the Commission grant its petition for waiver and direct USAC to accept the relevant line count information it received

³ Northwest Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

on April 6, 2007, so that CC Cellular can receive the universal service support at issue. The unexpected delay in mail service does not change the fact that CC Cellular acted reasonably in its submission of the report at issue. Moreover, CC Cellular has demonstrated that it and its subscribers will be adversely affected if the waiver request is not granted. Therefore, the Commission should direct USAC to release the universal service funds due CC Cellular for the months of July through September.

DATED this 6th day of November, 2007.

Respectfully submitted,

By: 

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